

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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THE PENN MUTUAL LIFE INSURANCE,
COMPANY

Plaintiff,

KATHY KEHOE, as Trustee of the
SICKNESS ACCIDENT & DISABILITY
INDEMNITY TRUST 2005; KATHY
KEHOE, as Trustee of the GRIST MILL
TRUST DATED 10-1-03; and UNIVERSITAS
EDUCATION, LLC,

Defendants.
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CASE NO: 15-CV-01111 (AJN)

**NOTICE OF MOTION TO QUASH SUBPOENA AND FOR
PROTECTIVE ORDER CONCERNING DEPOSITION OF DANIEL CARPENTER**

PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law, dated February 8, 2016, non-party witness, Daniel Carpenter, by and through the undersigned counsel, hereby moves this Court, before the Hon. Alison J. Nathan, at the United States Courthouse located at 500 Pearl Street, New York, NY 10007, pursuant to Fed. R. Civ. Pro. 45, to quash the subpoena issued by counsel for Defendant, Universitas Education, LLC for the deposition of Mr. Carpenter on February 10, 2016 and for a protective order staying Mr. Carpenter's deposition until the criminal charges pending against him in the District of Connecticut are resolved.

As further stated in the accompanying Memorandum of Law, (1) the subpoena at issue has not been properly served on Mr. Carpenter; (2) it fails to allow a reasonable time for compliance, (3) even if reasonable notice had been provided, which clearly is not the case here, neither the witness nor his counsel are available to proceed on February 10, 2016; (4) Universitas has attempted to use the present action, in which Mr. Carpenter is not a party, to obtain leave of court without notice to Mr. Carpenter's counsel, and to compel his deposition for the **third** time

on related topics without adjudicating motions for protective order that have been pending for almost a year in a related action in which Mr. Carpenter is a party; and (5) the subject subpoena imposes an undue burden on Mr. Carpenter because the proposed deposition date is just six days before Mr. Carpenter stands trial on complex criminal charges relating to the subject matter of the alleged deposition.

Dated: February 8, 2016

DANIEL CARPENTER

By: /s/ David A. Slossberg
David A. Slossberg, Esq. (DS-0566)
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CERTIFICATE OF SERVICE

This is to certify that on February 8, 2016, a copy of the foregoing was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system and by mail to all parties that are unable to accept electronic filing. Parties may access this filing through the Court's electronic system.

/s/ David A. Slossberg
David A. Slossberg